

# Exhibit A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**RUTH SMITH**, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

**SUNPATH, LTD.**, a Massachusetts corporation,

Defendant.

Case No. 1:22-cv-00081-LMB-WEF

**DECLARATION OF PATRICK H. PELUSO**

I, Patrick H. Peluso, declare as follows:

1. I am an attorney with the law firm Woodrow & Peluso, LLC and counsel of record for Plaintiff Ruth Smith (“Plaintiff” or “Smith”).

2. On January 26, 2022, Plaintiff filed the instant action alleging wide-scale violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA” or “Act”) and the Virginia Telephone Privacy Protection Act (“VTPPA”).

3. On August 24, 2022, Plaintiff issued subpoenas for documents and testimony from SunPath’s marketer, Chukran Management Group, LLC d/b/a American Protection Corp. (“American Protection”).

4. After service of the subpoenas, American Protection’s president, Kobi Chukran, contacted Plaintiff’s counsel and explained that he was not available in October for the deposition and instead could be deposed in November.

5. Plaintiff promptly deposed American Protection’s representative, Kobi Chukran, on November 1, 2022. Unfortunately, Mr. Chukran terminated the deposition roughly half-way

through counsel's questioning. After a discussion with American Protection's counsel, Mr. Chukran agreed to appear on November 9, 2022, to complete the deposition.

6. On November 9, 2022, Plaintiff deposed American Protection's representative for the second time. During this deposition, Mr. Chukran revealed that American Protection utilized a telephone system provided by Five9, Inc. to place calls during the relevant time period.

7. On November 9, 2022, Plaintiff issued a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action directed to Five9, Inc. Among other things, the subpoena sought the call records, which would reflect the calls placed to Plaintiff and the class, and documents reflecting the functionality of the dialing system.

8. On November 23, 2022, Five9's counsel contacted Plaintiff's counsel regarding its inability to produce the documents until November 30, 2022.

9. On November 30, 2022, Five9 produced the call records reflecting all of the calls placed to the proposed Class. The records reveal millions of calls placed by SunPath's third party marketer, American Protection.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 20, 2022, in Denver, Colorado.

By: /s/ Patrick H. Peluso

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